

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 5, 2005

SENATE BILL

No. 831

Introduced by Senator Machado

February 22, 2005

An act to amend Section 12648.6 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 831, as amended, Machado. Flood control: Stockton Metropolitan Area Flood Control Project.

Existing law authorizes, on a project-by-project basis, and in accordance with designated plans, state participation in federal flood control projects and specifies the degree of cooperation to be assumed by the state and local agencies in connection with those projects. Existing law authorizes, among other specific projects, the Mormon Slough channel improvement project on the Calaveras River.

This bill, *subject to the execution of a specified hold harmless agreement*, ~~would adopt and authorize additional project works constructed by the San Joaquin Area Flood Control Agency on the Bear Creek Project and the Mormon Slough Project, collectively known as the Stockton Metropolitan Area Flood Control Project, as prescribed. The bill would require the agency to enter into a prescribed agreement with the Department of Water Resources prior to expending any state funds for these project works~~ *authorize the Reclamation Board to accept the transfer of any project works of the Stockton Metropolitan Area Flood Control Project constructed by the San Joaquin Area Flood Control Agency that is considered an addition or extension to the Bear Creek and Mormon Slough Projects.*

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12648.6 of the Water Code is amended
2 to read:

3 12648.6. (a) The Mormon Slough channel improvement
4 project on the Calaveras River is adopted and authorized
5 substantially in accordance with the recommendation of the
6 Chief of Engineers in House Document Numbered 576, 87th
7 Congress, and adopted and authorized by the act of Congress
8 approved October 23, 1962 (Public Law 87-874), at an estimated
9 state cost of two million two hundred sixty thousand dollars
10 (\$2,260,000).

11 ~~(b) The additional project works constructed by the San~~
12 ~~Joaquin Area Flood Control Agency on the Bear Creek Project~~
13 ~~(inclusive of Bear Creek, Paddy and South Paddy Creeks,~~
14 ~~Mosher Creek Diversion, Mosher Slough, Mosher Creek, Bear~~
15 ~~Creek Wing Levee, Pixley Slough, and Little Bear Creek) and~~
16 ~~the Mormon Slough Project (inclusive of Mormon Slough, Potter~~
17 ~~Creek, Stockton Diverting Canal, and Calaveras River),~~
18 ~~collectively known as the Stockton Metropolitan Area Flood~~
19 ~~Control Project, within San Joaquin County, the construction of~~
20 ~~which project works having been authorized by Section 211 of~~
21 ~~the Water Resources Development Act of 1996 (P.L. 104-303),~~
22 ~~and having been accepted by the United States Department of the~~
23 ~~Army Corps of Engineers and transferred by the Corps of~~
24 ~~Engineers to the Reclamation Board on July 1, 2003, are adopted~~
25 ~~and authorized substantially in accordance with the Operation~~
26 ~~and Maintenance Manual of the Corps of Engineers dated April~~
27 ~~29, 2003, at the state cost of twelve million six hundred~~
28 ~~twenty-five thousand dollars (\$12,625,000), the amount~~
29 ~~previously appropriated by Chapter 1057 of the Statutes of 1998.~~

30 ~~(c) Prior to expending any state funds for project works~~
31 ~~described in subdivision (b), the San Joaquin Area Flood Control~~
32 ~~Agency shall enter into an agreement with the department~~
33 ~~pursuant to which the agency agrees to indemnify and hold and~~

1 ~~save harmless the state, its officers, agents, and employees for~~
2 ~~any and all liability for damages that may arise out of the~~
3 ~~planning, design, construction, operation, maintenance, repair,~~
4 ~~and rehabilitation of the project.~~

5 *(b) The Reclamation Board is authorized to accept the transfer*
6 *of any project works of the Stockton Metropolitan Area Flood*
7 *Control Project constructed by the San Joaquin Area Flood*
8 *Control Agency that is considered an addition or extension to the*
9 *Bear Creek and Mormon Slough Projects and has been accepted*
10 *by the United States Department of the Army Corps of Engineers,*
11 *substantially in accordance with the authorization provided by*
12 *Section 211 of the Water Resources Development Act of 1996*
13 *(P.L. 104-303), as amended, for which the state share of twelve*
14 *million six hundred twenty-five thousand dollars (\$12,625,000),*
15 *has been appropriated by Chapter 1057 of the Statutes of 1998,*
16 *and which amount has been disbursed to the San Joaquin Area*
17 *Flood Control Agency.*

18 *(c) Prior to acceptance of the project works described in*
19 *subdivision (b) by the Reclamation Board, the San Joaquin Area*
20 *Flood Control Agency and its member agencies, the San Joaquin*
21 *County Flood Control and Water Conservation District, the City*
22 *of Stockton, and the County of San Joaquin, shall enter into an*
23 *agreement with the board pursuant to which the agencies agree*
24 *jointly and severally to indemnify and hold and save harmless the*
25 *state, its officers, agents, and employees for any and all liability*
26 *for damages that may arise out of the planning, design,*
27 *construction, operation, maintenance, repair, and rehabilitation*
28 *of the project or project works.*

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety
31 within the meaning of Article IV of the Constitution and shall go
32 into immediate effect. The facts constituting the necessity are:

33 In order to remedy critical flooding problems as soon as
34 possible, thereby protecting public health and safety, it is
35 necessary that this act take effect immediately.